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RICHARD W. WIEKING  
CLERK, U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

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UMG RECORDINGS, INC.; ARISTA RECORDS  
LLC; ELEKTRA ENTERTAINMENT GROUP  
INC.; CAPITOL RECORDS, INC.; LAFACE  
RECORDS LLC; SONY BMG MUSIC  
ENTERTAINMENT; and MOTOWN RECORD  
COMPANY, L.P.

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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

CV 07

6033

UMG RECORDINGS, INC., a Delaware  
corporation; ARISTA RECORDS LLC, a  
Delaware limited liability company; ELEKTRA  
ENTERTAINMENT GROUP INC., a Delaware  
corporation; CAPITOL RECORDS, INC., a  
Delaware corporation; LAFACE RECORDS  
LLC, a Delaware limited liability company;  
SONY BMG MUSIC ENTERTAINMENT, a  
Delaware general partnership; and MOTOWN  
RECORD COMPANY, L.P., a California  
limited partnership,

Plaintiffs,

v.

JOHN DOE,

Defendant.

CASE NO.

COMPLAINT FOR COPYRIGHT  
INFRINGEMENT

RMW

RS

**JURISDICTION AND VENUE**

1  
2 1. This is a civil action seeking damages and injunctive relief for copyright infringement  
3 under the copyright laws of the United States (17 U.S.C. § 101 *et seq.*).

4 2. This Court has jurisdiction under 17 U.S.C. § 101 *et seq.*; 28 U.S.C. § 1331 (federal  
5 question); and 28 U.S.C. § 1338(a) (copyright).

6 3. Venue in this District is proper. See 28 U.S.C. §§ 1391(b), 1400(a). Although the  
7 true identity of Defendant is unknown to Plaintiffs at this time, on information and belief, Defendant  
8 may be found in this District and/or a substantial part of the acts of infringement complained of  
9 herein occurred in this District. On information and belief, personal jurisdiction in this District is  
10 proper because Defendant, without consent or permission of the copyright owner, disseminated over  
11 the Internet copyrighted works owned and/or controlled by Plaintiffs. On information and belief,  
12 such illegal dissemination occurred in every jurisdiction in the United States, including this one. In  
13 addition, Defendant contracted with an Internet Service Provider ("ISP") found in this District to  
14 provide Defendant with the access to the Internet which facilitated Defendant's infringing activities.

**PARTIES**

15  
16 4. Plaintiff UMG Recordings, Inc. is a corporation duly organized and existing under the  
17 laws of the State of Delaware, with its principal place of business in the State of California.

18 5. Plaintiff Arista Records LLC is a limited liability company duly organized and  
19 existing under the laws of the State of Delaware, with its principal place of business in the State of  
20 New York.

21 6. Plaintiff Elektra Entertainment Group Inc. is a corporation duly organized and  
22 existing under the laws of the State of Delaware, with its principal place of business in the State of  
23 New York.

24 7. Plaintiff Capitol Records, Inc. is a corporation duly organized and existing under the  
25 laws of the State of Delaware, with its principal place of business in the State of New York.

26 8. Plaintiff LaFace Records LLC is a limited liability company duly organized and  
27 existing under the laws of the State of Delaware, with its principal place of business in the State of  
28 New York.

1           9.       Plaintiff SONY BMG MUSIC ENTERTAINMENT is a Delaware general  
2 partnership, with its principal place of business in the State of New York.

3           10.      Plaintiff Motown Record Company, L.P. is a limited partnership duly organized and  
4 existing under the laws of the State of California, with its principal place of business in the State of  
5 California.

6           11.      The true name and capacity of Defendant are unknown to Plaintiffs at this time.  
7 Defendant is known to Plaintiffs only by the Internet Protocol ("IP") address assigned to Defendant  
8 by his or her ISP on the date and time of Defendant's infringing activity. See Exhibit A. Plaintiffs  
9 believe that information obtained in discovery will lead to the identification of Defendant's true  
10 name.

# COUNT I

## INFRINGEMENT OF COPYRIGHTS

13           12.      Plaintiffs incorporate herein by this reference each and every allegation contained in  
14 each paragraph above.

15           13.      Plaintiffs are, and at all relevant times have been, the copyright owners or licensees of  
16 exclusive rights under United States copyright law with respect to certain copyrighted sound  
17 recordings, including, but not limited to, all of the copyrighted sound recordings on Exhibit A to this  
18 Complaint (collectively, these copyrighted sound recordings shall be identified as the "Copyrighted  
19 Recordings"). Each of the Copyrighted Recordings is the subject of a valid Certificate of Copyright  
20 Registration issued by the Register of Copyrights to each Plaintiff as specified on each page of  
21 Exhibit A.

22           14.      Among the exclusive rights granted to each Plaintiff under the Copyright Act are the  
23 exclusive rights to reproduce the Copyrighted Recordings and to distribute the Copyrighted  
24 Recordings to the public.

25           15.      Plaintiffs are informed and believe that Defendant, without the permission or consent  
26 of Plaintiffs, has continuously used, and continues to use, an online media distribution system to  
27 download and/or distribute to the public certain of the Copyrighted Recordings. Exhibit A identifies  
28 the IP address with the date and time of capture and a list of copyrighted recordings that Defendant

1 has, without the permission or consent of Plaintiffs, downloaded and/or distributed to the public.  
2 Through his or her continuous and ongoing acts of downloading and/or distributing to the public the  
3 Copyrighted Recordings, Defendant has violated Plaintiffs' exclusive rights of reproduction and  
4 distribution. Defendant's actions constitute infringement of Plaintiffs' copyrights and/or exclusive  
5 rights under copyright. (In addition to the sound recordings listed on Exhibit A, Plaintiffs are  
6 informed and believe Defendant has, without the permission or consent of Plaintiffs, continuously  
7 downloaded and/or distributed to the public additional sound recordings owned by or exclusively  
8 licensed to Plaintiffs or Plaintiffs' affiliate record labels, and Plaintiffs believe that such acts of  
9 infringement are ongoing. Exhibit A includes the currently-known total number of audio files being  
10 distributed by Defendant.)

11 16. Plaintiffs have placed proper notices of copyright pursuant to 17 U.S.C. § 401 on  
12 each respective album cover of each of the sound recordings identified in Exhibit A. These notices  
13 of copyright appeared on published copies of each of the sound recordings identified in Exhibit A.  
14 These published copies were widely available, and each of the published copies of the sound  
15 recordings identified in Exhibit A was accessible by Defendant.

16 17. Plaintiffs are informed and believe that the foregoing acts of infringement have been  
17 willful, intentional, and in disregard of and with indifference to the rights of Plaintiffs.

18 18. As a result of Defendant's infringement of Plaintiffs' copyrights and exclusive rights  
19 under copyright, Plaintiffs are entitled to statutory damages pursuant to 17 U.S.C. § 504(c) against  
20 Defendant for each infringement of each copyrighted recording. Plaintiffs further are entitled to  
21 their attorneys' fees and costs pursuant to 17 U.S.C. § 505.

22 19. The conduct of Defendant is causing and, unless enjoined and restrained by this  
23 Court, will continue to cause Plaintiffs great and irreparable injury that cannot fully be compensated  
24 or measured in money. Plaintiffs have no adequate remedy at law. Pursuant to 17 U.S.C. §§ 502  
25 and 503, Plaintiffs are entitled to injunctive relief prohibiting Defendant from further infringing  
26 Plaintiffs' copyrights, and ordering that Defendant destroy all copies of copyrighted sound  
27 recordings made in violation of Plaintiffs' exclusive rights.  
28

WHEREFORE, Plaintiffs pray for judgment against Defendant as follows:

1. For an injunction providing:

"Defendant shall be and hereby is enjoined from directly or indirectly infringing Plaintiffs' rights under federal or state law in the Copyrighted Recordings and any sound recording, whether now in existence or later created, that is owned or controlled by Plaintiffs (or any parent, subsidiary, or affiliate record label of Plaintiffs) ("Plaintiffs' Recordings"), including without limitation by using the Internet or any online media distribution system to reproduce (*i.e.*, download) any of Plaintiffs' Recordings or to distribute (*i.e.*, upload) any of Plaintiffs' Recordings, except pursuant to a lawful license or with the express authority of Plaintiffs. Defendant also shall destroy all copies of Plaintiffs' Recordings that Defendant has downloaded onto any computer hard drive or server without Plaintiffs' authorization and shall destroy all copies of those downloaded recordings transferred onto any physical medium or device in Defendant's possession, custody, or control."

2. For statutory damages for each infringement of each Copyrighted Recording pursuant to 17 U.S.C. § 504.

3. For Plaintiffs' costs in this action.

4. For Plaintiffs' reasonable attorneys' fees incurred herein.

5. For such other and further relief as the Court may deem just and proper.

Dated: November 29, 2007

HOLME ROBERTS & OWEN LLP

By: 

MATTHEW FRANKLIN JAKSA

Attorney for Plaintiffs

UMG RECORDINGS, INC.; ARISTA RECORDS LLC; ELEKTRA ENTERTAINMENT GROUP INC.; CAPITOL RECORDS, INC.; LAFACE RECORDS LLC; SONY BMG MUSIC ENTERTAINMENT; and MOTOWN RECORD COMPANY, L.P.

# **Exhibit A**

**EXHIBIT A****JOHN DOE****IP Address:** 169.229.102.148 2007-03-19 08:25:51 EDT**CASE ID#** 122371726**P2P Network:** GnutellaUS**Total Audio Files:** 426

<u>Copyright Owner</u>	<u>Artist</u>	<u>Recording Title</u>	<u>Album Title</u>	<u>SR#</u>
UMG Recordings, Inc.	Brian McKnight	Love Of My Life	Superhero	301-470
Arista Records LLC	Avril Lavigne	Complicated	Let Go	312-786
Motown Record Company, L.P.	Boyz II Men	Water Runs Dry	II	196-004
Elektra Entertainment Group Inc.	Tamia	Stranger In My House	A Nu Day	293-084
Capitol Records, Inc.	Sammie	I Like It	From The Bottom To The Top	278-808
UMG Recordings, Inc.	Keke Wyatt	Nothing In This World	Soul Sista	303-159
Elektra Entertainment Group Inc.	Yolanda Adams	Fragile Heart	Mountain High Valley Low	278-575
LaFace Records LLC	Usher	You Make Me Wanna	My Way	257-730
SONY BMG MUSIC ENTERTAINMENT	Mariah Carey	Hero	Music Box	178-631